

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andrew H. Robbins Art Unit : 3688
Serial No. : 10/766,517 Examiner : Michael R. Stibley
Filed : January 28, 2004 Conf. No. : 2227
Title : Stored product personal identification system

MAIL STOP APPEAL BRIEF-PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

BRIEF ON APPEAL

(1) Real Party in Interest

The real party in interest is Paytronix Systems, Inc., a corporation of Delaware, by virtue of an assignment recorded on Aug. 24, 2004 at reel 015082 and frame 0460.

(2) Related Appeals and Interferences

None

(3) Status of Claims

Claims 9, 15-17, 23, 30-31, 42-43 and 57-59 are cancelled. Claims 1-8, 10-14, 18-22, 24-29, and 32-41, and 44-56 are pending and on appeal.

(4) Status of Amendments

The amendment under Rule 41.33 to cancel claims 42-43 has been entered. Accordingly, all amendments have now been entered.

(5) Summary of Claimed Subject Matter

Claim 1

A computer implemented method of buying, storing, and redeeming products having the limitations of claim 1 can be found in the specification as follows. The limitation of receiving, from a first terminal, information indicating that one or more physical products have been pre-paid can be found in, for example, at page 12, lines 109

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and page 10, line 30 to page 11, line 2. Claim 1's limitation of receiving, from the first terminal, information indicating that a payment specific to the one or more pre-paid physical products has been made can be found in, for example, at page 12, lines 109 and page 10, line 30 to page 11, line 2. Claim 1's limitation of receiving, from the first terminal, a unique identifier that is used to identify a physical card; page 20, lines 13-15. Claim 1's limitation of adding, by a computer, the one or more pre-paid physical products to an account associated with the physical card can be found in, for example, at page 2, lines 11-14, and lines 14-15, and at page 11, lines 12-20. Claim 1's limitation of storing the account information in a central database can be found in, for example, at page 15, lines 13-15. Claim 1's limitation of receiving from the first terminal or a second terminal a unique identifier and a request to redeem one of the pre-paid physical products can be found in, for example, at page 12, lines 28-31. Claim 1's limitation of verifying, by the computer, that the unique identifier received with the request matches the unique identifier used to identify the physical card, and that the pre-paid product in the request matches one of the one or more pre-paid products in the account can be found in, for example, at page 3, lines 18-25, page 6, lines 7-8 and lines 10-14, and page 13, lines 16-22. Claim 1's limitation of sending approval of redemption of the pre-paid physical product to enable a user to redeem the pre-paid physical product at the first or second terminal without an additional payment or deduction of a monetary amount stored in the physical card can be found in, for example, at page 4, lines 1-3, page 9, lines 27-30, page 13, and lines 26-27.

Claim 26

The limitations of the system recited in claim 26 can be found in the specification as follows. The limitation of a first point-of-sale (POS) terminal comprising a first POS database having information about physical products that are available for purchase or redemption at the first POS terminal and a first user interface to enable a seller to enter information indicating that one or more physical products have been pre-paid and send messages to a central server to store information about the one or more physical products in an account associated with a unique identifier of a physical card, the message

indicating that a payment specific to the one or more pre-paid products has been made by a customer, can be found, for example, at page 12, lines 1-9.

The limitation of a second user interface to receive messages from the central server indicating one or more pre-paid physical products in the account that are redeemable by a customer providing the unique identifier of the card and enabling the customer to redeem one of the pre-paid products without an additional payment or deduction of a monetary amount from the physical card can be found, for example, at page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 32

The limitations of a computer implemented method of buying, storing, and redeeming physical products as recited in claim can be found in the specification as follows. The limitation of receiving information indicating that a first physical product has been pre-paid, the first physical product representing a family of specific physical products is disclosed at, for example, page 12, lines 1-9. The limitation of receiving a unique identifier is disclosed at, for example, page 20, lines 13-15. The limitation of adding, by a computer, the first physical product to an account identified by the unique identifier is disclosed at, for example, page 2, lines 11-14, page 2, lines 14-15, and page 11, lines 12-20. The limitation of receiving a unique identifier and a request to redeem a second physical product that is among the family of specific physical products represented by the first physical product is disclosed at, for example, page 12, lines 28-31. The limitation of verifying, by the computer, that the unique identifier received with the request matches the unique identifier used to identify the account is disclosed at, for example, page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22. The limitation of processing, by the computer, the request to redeem the second physical product using a set of rules to verify that the second physical product is within the family of specific physical products represented by the first physical product is disclosed at, for example, page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22. The limitation of sending approval of redemption of the second

physical product is disclosed at, for example, page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 41

Limitations to a computer implemented method of processing a customer order at a restaurant as recited in claim 41 can be found in the specification as follows. The limitation of receiving, from a first restaurant point-of-sale terminal, an identifier associated with a physical card, information about a customer's order, and information indicating that a payment specific to the customer's order has been made can be found in the specification at least at page 12, lines 1-9. The limitation of storing, by a computer, in an account associated with the card information about the customer's order can be found in the specification at least at page 2, lines 11-14, page 2, lines 14-15, and page 11, lines 12-20. The limitation of receiving, from a second restaurant point-of-sale terminal, the identifier associated with the card and a request to retrieve the stored order can be found in the specification at least at page 12, lines 28-31, page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22. The limitation of providing the stored order to the second restaurant point-of-sale terminal without an additional payment or deduction of a monetary amount from the physical card can be found in the specification at least at page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 44

Limitations for a computer implemented method of operating a stored product card as recited in claim 44 can be found in the specification as follows. The limitation of receiving a unique identifier that identifies a physical card, information indicating that one or more physical products have been pre-paid, and information indicating that a payment specific to the one or more pre-paid physical products has been made can be found at least at page 12, lines 1-9, and page 20, lines 13-15. The limitation of receiving a request to add the one or more pre-paid physical products to an account associated with the physical card can be found at least at page 2, lines 11-14, page 2, lines 14-15, and page 11, lines 12-20. The limitation of receiving the unique identifier and a request to redeem a second physical product can be found at least at page 12, lines 28-31. The

limitation of verifying, by a computer, that the second physical product matches one of the one or more pre-paid physical products in the account can be found at least at page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22. The limitation of sending approval of redemption of the second physical product to enable a user to redeem the second physical product without an additional payment or deduction of a monetary amount from the physical card can be found at least at page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 53

The limitations for a computer implemented method of buying, storing, and redeeming products as recited in claim 53 can be found in the specification as follows. The limitation of receiving, from a first terminal information indicating that one or more products have been pre-paid, the one or more products comprising a product corresponding to at least one of a family of items of a restaurant menu, a plurality of stock keeping unit (SKU) items, a family of SKU items, a category of products, or a plurality of families of products can be found at least at page 12, lines 1-9 and in originally filed claims 3, 5, and 8. The limitation of storing, by a computer, information about the one or more pre-paid products in a central database can be found at least at page 15, lines 13-15. The limitation of receiving from a second terminal a request to redeem a specific product can be found at least at page 12, lines 28-31. The limitation of verifying, by the computer, that the specific product matches one of sub-members of the pre-paid products can be found at least at page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22. The limitation of sending approval of redemption of the specific product to enable a customer to redeem the specific product at the second terminal, in which the specific product being redeemed is more specific than the pre-paid product can be found at least at page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 54

The limitations for a method of buying, storing, and redeeming products as recited in claim 54 can be found in the specification as follows. The limitation of receiving from

a plurality of point-of-sale (POS) terminals information regarding pre-paid products that were paid by customers page 12, lines 1-9. The limitation of storing, by a computer, information about the pre-paid products in accounts associated with identifiers designated by the customers to enable later redemption of the pre-paid products, each POS terminal having access to a corresponding POS database having information about products that are available for purchase or redemption at the POS terminal, some of the products each corresponding to at least one of a family of items of a restaurant menu, a plurality of SKU items, a family of SKU items, a category of products, or a plurality of families of products can be found at least at page 2, lines 11-14, page 2, lines 14-15, and page 11, lines 12-20, as well as original claims 3, 5, and 8. The limitation of enabling redemption of one of the family of items of the restaurant menu, one of the plurality of SKU items, one of the family of SKU items, one of the category of products, or one of the plurality of families of products can be found at least at page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-14, and page 13, lines 16-22, page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27, as well as original claims 3, 5, and 8.

Claim 55

The limitations for a method of operating a plurality of point-of-sale terminals as recited in claim 55 can be found in the specification as follows. The limitation of enabling a plurality of point-of-sale (POS) terminals at various stores of a franchise to access corresponding POS databases having information about products that are available for purchase or redemption at each corresponding POS terminal, the POS terminal of each store not having access to the POS databases of other stores can be found at least at page 6, lines 24-27, page 8, lines 11-17, and page 10, lines 24-30. The limitation of enabling each POS terminal to allow customers to pay for products, store information about the pre-paid products in accounts associated with the customers at a central server to allow later redemption of the pre-paid products at any of the POS terminals, and to allow customers to redeem pre-paid products that were paid for at any of the POS terminals can be found at least at page 3, lines 18-25, page 6, lines 7-8, page 6, lines 10-

14, and page 13, lines 16-22, page 4, lines 1-3, page 9, lines 27-30, and page 13, lines 26-27.

Claim 37

Limitations for a system as recited in claim 37 can be found in the specification as follows. The limitation of a point-of-sale (POS) terminal comprising a user interface to enable a customer to redeem physical products in an account of the customer can be found at, for example, FIG. 1, element 25, and at page 6, lines 6-13. The limitation of a POS database having information about a plurality of physical products that are available for redemption at the POS terminal, and rules about selecting a physical product from the plurality of physical products in response to a request to redeem a first physical product in the account that corresponds to a plurality of specific physical products in the POS database can be found at, for example, element 22 in FIG. 1, at page 2, lines 24-26, at page 3, lines 12-17, and page 13, lines 1-12. The limitation of a processor to select a specific physical product from among the plurality of specific physical products in the POS database for redemption according to the rules, in which the specific physical product selected by the processor is more specific than the first physical product in the request for redemption can be found at, for example, at page 28, lines 15-23.

(6) Grounds of Rejection to be Reviewed on Appeal

- Rejection of claims 1, 3, 5, 10, 11-14, 18-22, 24-26, 29, 41, and 44-52 under 35 USC 103(a) as being rendered obvious by the combination of *Greer*¹ and *D'Arbeloff*.²
- Rejection of claims 2, 4, 6-8, 27-28, 32-36, and 53-56 under 35 USC 103(a) as being rendered obvious by the combination of *Greer*, *D'Arbeloff*, and *Toth*.
- Rejection of claims 37-40 under 35 USC 103(a) as being rendered obvious by the combination of *Greer* and *Toth*.

¹ *Greer*, et al., U.S. Patent No. 5,969,316.

² *D'Arbeloff*, et al., U.S. Patent Publ. 2003-0009382.

(7) Argument

REJECTION OF CLAIMS 1, 3, 5, 10, 11-14, 18-22, 24-26, 29, 41, AND 44-52 UNDER 35 USC 103(A) AS BEING RENDERED OBVIOUS BY THE COMBINATION OF GREER AND D'ARBELLOF

SECTION 103 REJECTION OF INDEPENDENT CLAIMS 1, 26, 41, AND 44

Greer fails to disclose “receiving...information indicating that... physical products have been pre-paid” and “receiving...information indicating that a payment specific to...pre-paid physical products has been made.”

The primary reference, *Greer*, discloses a card for a meal plan. Thus, the essential distinction between the claimed subject matter and the combination of references is the difference between a card for a meal plan and a card that stores data representing physical products (i.e. a “stored product” card).

A card for a meal plan entitled the holder to a certain number of meals a day at during the course of a term. The meal itself is a physical product. For this reason, the examiner regards a meal plan card as being one that has information indicating that physical products (i.e. meals) have been pre-paid. Because of this, the examiner sees no difference between Applicant’s stored product card and Greer’s meal card.

In fact, what is stored in the meal card is information indicating that the holder has a pre-paid right to be served a meal during each of a plurality of time intervals. This is quite different from information indicating that one or more physical products have been pre-paid. As a result of this difference, Greer’s meal card and Applicant’s have very different properties.

One difference is that Greer’s meal card will be useless at the end of a term *even if the holder never actually uses it*. It will make no difference whether the holder eats every meal during the term, or if he skips all his meals. Either way, the card will have no value at the end of the term.

This is inconsistent with the idea of storing physical products. A true stored product card holds its value until and unless the holder redeems a stored product. If

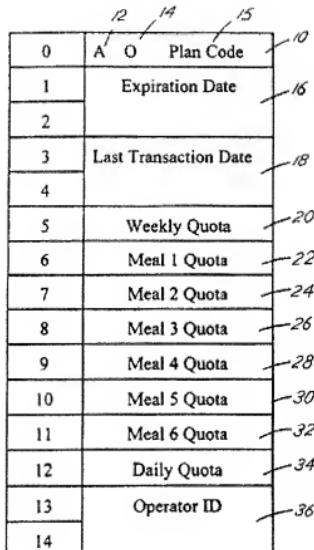
Greer's meal card were truly a stored product card, its value at the end of the term should depend on how many stored products have been redeemed.

As a result of the above difference, a holder of Applicant's card will not have to worry about sleeping late and missing breakfast. He will know that his card will not lose value if he misses breakfast. The holder of Applicant's card has the comfort of knowing that his card is not relentlessly depreciating.

In addition, a holder of Applicant's stored product card can splurge. For example, if his card has thirty meals stored on it, he can readily host a party for thirty people by redeeming all his stored meals at once. In contrast, a holder of Greer's card can do no such thing. A holder of Greer's card does not have the option of inviting thirty people for dinner. When it is time for dinner, the holder of Greer's card gets one and only one dinner. This is because Greer's card does not actually store thirty dinners. It stores the right to have one dinner a day for thirty days. This is not a physical product. It is an intangible contractual right.

In contrast, one can load Applicant's stored product card with thirty dinners from a local restaurant. One can then host a party and redeem all thirty dinners in one sitting. This is possible because Applicant's card actually stores "information indicating that" thirty physical products, i.e. dinners, "have been pre-paid."

There is no need to speculate as to whether Greer's card stores "information indicating that one or more physical products have been pre-paid." Everything stored in Greer's card is shown in the fifteen registers in FIG. 1:



The examiner has not identified specifically what register is believed to store "information indicating that one or more physical products have been pre-paid."

Register 0 has one bit that specifies the administrator "A", one bit that specifies the operator "O", and a number between 0 and 63 that identifies one of 64 possible meal plans. Thus, what this register actually stores is "information indicating that one or more physical products have a meal plan has been pre-paid."

The issue for the Board is whether a "meal plan" is a tangible "physical product."

Applicant submits that a "meal plan" is essentially a contract. It is a promise by a meal provider to make a certain number of meals available at certain times in exchange

for consideration. A contract has no mass, or charge, or any attribute of a physical product. It is an intangible thing, not a physical product.³

Registers 1-4 include date information and registers 5-12 are meal quotas. None of these amount to information indicating that physical products have been pre-paid. The remaining registers, registers 0 and 13-14, contain administrative information. These registers likewise do not contain any “information indicating that a payment” for any physical product has been made.

It is apparent therefore that none of the registers 0-14 in the card would actually store the required “information indicating that one or more physical products have been pre-paid.” The secondary reference fails to correct this deficiency in the disclosure of the primary reference. Hence, the combination of references taken as a whole fails to disclose or suggest “receiving, from a first terminal, information indicating that one or more physical products have been pre-paid.”

Greer fails to teach “adding pre-paid physical products to an account associated with the physical card”

Greer discloses adding information about a meal plan. The meal plan is not a physical product. The meal plan is simply a set of rules restricting how many meals a user can have, and when the user may have them. In essence, the *Greer* smart card functions as a ticket for admission into a cafeteria.

The examiner appears to suggest that just because a meal plan governs the dispensing of physical products, it is, by itself, a physical product.

In fact, this is not the case. A plan for controlling the disposition of a physical thing is not itself a physical thing. It is simply a plan. Such a plan has neither shape,

³ In the Final Action, the examiner states that according to Applicant’s logic, an entrée is an intangible idea until you know it is chicken or steak. In response, Applicant points out that all words, including “chicken” and “steak” are abstractions. However, whatever an entrée might be, it is fairly clear that it has mass and takes up space. Therefore, an entrée would readily be understood by one of ordinary skill in the art as a physical product.

mass, size, charge, or any other attribute of a physical thing. A plan per se is an intangible abstraction, not a physical product.

Since a meal plan is simply a type of plan, it too is intangible. The fact that the adjective “meal” pertains to a tangible thing does not mean that the noun it modifies, “plan,” suddenly becomes tangible.

Greer fails to disclose “storing the account information in a central database”

The examiner cites col. 2, lines 14-15 as allegedly disclosing the storage of “account information in a central database.”

The cited text, however, describes FIG. 1. Although FIG. 1 shows memory registers, these registers are on the smart card itself, not in some central database. Hence, this cited text does not disclose “storing the account information in a central database.”

The examiner further cites col. 2, lines 33-50 as allegedly disclosing the storage of “account information in a central database.”

The cited text describes registers. But again, these registers are on the smart card, not in any central database. Therefore, this text does not disclose “storing the account information in a central database.”

However, in the final office action, the examiner states that the collection of fifteen registers on the smart card is a “database,” presumably because it is capable of storing data.

A set of data registers is not a “database” simply because it can store data. If this were the case, every memory card, hard drive, and punched paper tape would become a “database.” There is no substantial evidence on record to support the factual finding that one of ordinary skill in the art would regard a set of registers as forming “a database.”

Accordingly the factual finding that one of ordinary skill in the art would regard a set of fifteen registers on a smart card as “a database” is arbitrary and capricious agency action that is inconsistent with the Administrative Procedures Act.

Claims 26, 41, 44, 51, and 52 include limitations that pertain to storing information indicating pre-payment of physical products, and are patentable for at least the same reasons as claim 1. All claims dependent on the foregoing claims are patentable for at least the same reasons described above in connection with claim 1.

Because the primary reference fails to disclose or suggest any of the above limitations, and because the secondary reference fails to correct this deficiency in the primary reference, Applicant requests reversal of the section 103 rejection of all the above claims.

SECTION 103 REJECTION OF DEPENDENT CLAIMS 3 AND 5

Claim 3 recites the additional limitation that the products include “a product associated with a specific stock keeping unit.” Claim 5 requires that a product be “associated with a family of SKU items.”

The examiner concedes that the additional limitations of claim 3 and claim 5 are not disclosed in the cited art. Nevertheless, the examiner asserts that one of ordinary skill in the art would have found it obvious to modify the cited art to include associate the meals with SKUs.

The final office action correctly points out that SKUs are known. However, all inventions amount to old things combined in novel and non-obvious ways. It is the claim as a whole that must be novel and non-obvious. If each individual limitation of a claim had to be novel and non-obvious as well, nothing could be patentable.

One of ordinary skill in the art would have understood that SKUs are used to identify inventory in a warehouse, or in retail stores. One of ordinary skill in the art would not have found it customary to adopt techniques intended for managing inventory

in warehouses to identify meals in a food service facility. Thus, one of ordinary skill in the art would have had no plausible reason to modify associate meals in a food service facility with stock keeping units.

By relying on the lack of novelty of a particular claim limitation as a basis for an obviousness rejection, the examiner has made a clear legal error. To remedy the error, Applicant requests reversal of the section 103 rejection of the claims.

SECTION 103 REJECTION OF DEPENDENT CLAIM 10

Claim 10 recites the additional limitation of “sending to the second terminal a message showing the pre-paid products in the account.”

Greer discloses two “terminals:” a configuration terminal and a POS terminal. The configuration terminal writes initial data to the card at the time the card is issued. The POS terminal scans the card each time it is presented for a meal to determine whether all conditions for providing a meal have been met. Neither the POS terminal nor the configuration terminal engages in “sending...a message” of any sort, let alone “a message showing the pre-paid products in the account.”

The secondary reference fails to remedy the foregoing deficiency in the primary reference. Therefore, the combination of references fails to teach or suggest the above limitation. Accordingly, Applicant requests reversal of the section 103 rejection.

SECTION 103 REJECTION OF DEPENDENT CLAIMS 12, 13, AND 14

Claim 12 recites the additional limitation of “adding...a pre-paid discount.” Claims 13 and 14 recite a similar limitation.

The examiner concedes that this limitation is not disclosed by the cited combination of references. The examiner’s position is that one of ordinary skill in the art would have modified the food plan in *Greer* in order to “encourage continued support.”

One of ordinary skill in the art would have understood that *Greer* pertains to institutional meal plans. One of ordinary skill in the art would also have understood that

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the competitive advantage of an institutional meal plan arises from its convenience for those who live and work in the institution, and not because of some price advantage. Therefore, one of ordinary skill in the art would have had no plausible basis for reducing institutional revenue by cutting prices when the competitive advantage of an institutional meal plan arises not from price but from convenience.

The examiner has not articulated any cogent technical reasoning for why one of ordinary skill in the art would have made the proposed modification. Accordingly, Applicant requests reversal of the section 103 rejection.

SECTION 103 REJECTION OF DEPENDENT CLAIMS 18 AND 48

Claim 18 recites a limitation that relates to transmission of messages. As discussed in connection with claim 10, neither the POS terminal nor the configuration terminal in *Greer* transmits messages.

Claim 18 also recites the limitation of “performing, by the computer, a check-level reconciliation, and automatically removing any products that have been added to the check but had not actually been paid for.” Claim 48 recites a similar limitation.

According to the examiner, *Greer* discloses the foregoing limitation at col. 4, lines 1-37

The cited text does not disclose or suggest anything about a check, let alone removing products from a check.

The bulk of the cited text discloses determining that conditions for dispensing a meal have been met. But this has nothing to do with “performing, by the computer, a check-level reconciliation, and automatically removing any products that have been added to the check but had not actually been paid for.”

The last paragraph of the cited text refers to updating quota information stored on the smart card. This amounts to recording the fact that a meal was dispensed. It has nothing to do with “performing, by the computer, a check-level reconciliation, and

automatically removing any products that have been added to the check but had not actually been paid for.”

The secondary reference fails to remedy the foregoing deficiency in the primary reference. Therefore, the combination of references fails to teach or suggest the above limitation. Accordingly, Applicant requests reversal of the section 103 rejection.

SECTION 103 REJECTION OF DEPENDENT CLAIM 20

Claim 20 recites the additional limitation that the first terminal be a remote network terminal.

The examiner cites two passages as allegedly disclosing a first terminal as recited in claim 20: col. 1, lines 49-53 and col. 3, lines 20-25. These passages appear to contradict each other. The first passage says the POS terminal is linked to a computer running an administrative software package, and the second says that the POS terminal is not linked to such a computer.

In either case, there is no indication that the POS terminal is a remote network terminal. One of ordinary skill in the art reading the specification would have understood that, to the extent the POS terminal is linked to a computer running an administrative software package, it is linked by a bus or other non-network connection. This interpretation is consistent with *Greer's* description of the POS terminal as being an autonomous device.

The secondary reference fails to remedy the foregoing deficiency in the primary reference. Therefore, the combination of references fails to teach or suggest the above limitation. Accordingly, Applicant requests reversal of the section 103 rejection.

SECTION 103 REJECTION OF DEPENDENT CLAIM 21

Claim 21 recites the additional limitation that the first terminal be a kiosk.

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The examiner cites two passages as allegedly disclosing a kiosk: col. 1, lines 49-53 and col. 3, lines 20-25. Both passages describe the existence of a POS terminal. But there is nothing that suggests that the POS terminal comprises a kiosk.

The mere fact that a terminal happens to be a POS does not necessarily mean that it is also a kiosk. It is quite possible, and in fact common, to have a POS terminal that is not a kiosk.

The secondary reference fails to remedy the above deficiency in the primary reference. Accordingly, the combination of references likewise fails to disclose or suggest the above limitation. The section 103 rejection is therefore improper and should be reversed.

SECTION 103 REJECTION OF DEPENDENT CLAIMS 24-25

Claims 24 and 25 recite the further limitation that the “unique identifier that is used to identify a physical card” be one that identifies either a payment card or a smart card.

The examiner concedes that *Greer* fails to disclose this limitation, but that it can be found in *D'Arbeloff*.

The cited text from *D'Arbeloff* discloses identifying a person, not a physical card. Accordingly, this is not the same as nor suggestive of the limitation, which requires an identifier that identifies “a physical card.”

Since neither the primary nor the second references discloses or suggests the limitation, the combination of references likewise cannot disclose or suggest it. Therefore the section 103 rejection of claims 24-25 is improper and should be reversed.

SECTION 103 REJECTION OF DEPENDENT CLAIMS 46-47

Both claims 46 and 47 require “transferring money from a first legal entity that owns the first terminal to a second legal entity that owns the second terminal,” with the distinction between the claims arising from the circumstances of the transfer.

The examiner alleges that this claim limitation is disclosed in *Greer*'s abstract and also at col. 3, lines 3-10 of *Greer*. But neither of these passages addresses ownership of different terminals. Neither passage teaches or suggests that two terminals are owned by different legal entities as the claim requires.

Accordingly, *Greer* fails to disclose or suggest at least this limitation of claims 48 and 49. As the secondary reference does nothing to remedy this deficiency in *Greer*, the combination of references likewise fails to disclose or suggest this limitation.

SECTION 103 REJECTION OF DEPENDENT CLAIM 49

Claim 49 recites limitations on two different POS terminals. Specifically, the claim requires that the first terminal include:

a first point-of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal,

and the second terminal include:

“a second point-of-sale terminal having access to a second point-of-sale database having information about products that are available for purchase or redemption at the second point-of-sale terminal,

Claim 49 further imposes restrictions on access to the POS databases. Specifically:

the first point-of-sale terminal does not have access to the second point-of-sale database, and the second point-of-sale terminal does not have access to the first point-of-sale database

The examiner alleges that these limitations are all disclosed either in the abstract or at col. 3, lines 3-10 of *Greer*. But neither of those passages ever refers to a POS as having its own associated database. Nor do those passages ever refer to a POS that cannot access a database of another POS. Thus, the cited passages have little relevance to the claim limitation.

Since the secondary reference fails to remedy the above deficiency in the disclosure of the primary reference, the combination of references fails to teach or

suggest the subject matter of claim 49. Therefore, Applicant requests reversal of the section 103 rejection of claim 49.

SECTION 103 REJECTION OF DEPENDENT CLAIM 50

Claim 50 recites limitations on two different POS terminals. Specifically, claim 50 requires that the first terminal include:

a first point-of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal,

and that the second terminal include:

“a second point-of-sale terminal having access to a second point-of-sale database having information about products that are available for purchase or redemption at the second point-of-sale terminal,

Claim 50 further imposes restrictions on products available at each POS. Specifically:

at least some of the products that are available for redemption at the second point-of-sale terminal are different from the products that are available for purchase at the first point-of-sale terminal

The examiner alleges that these limitations are all disclosed either in the abstract or at col. 3, lines 3-10 of *Greer*. But neither of those passages ever refers to a POS as having its own associated database. Nor do those passages ever refer to different products being available from different POS terminals. Thus, the cited passages have little relevance to the claim limitation.

Since the secondary reference fails to remedy the above deficiency in the disclosure of the primary reference, the combination of references fails to teach or suggest the subject matter of claim 50. Therefore, Applicant requests reversal of the section 103 rejection of claim 50.

SECTION 103 REJECTION OF DEPENDENT CLAIM 51

Claim 51 recites two different POS terminals in which the first POS terminal enables a customer to redeem a pre-paid product that was added to the customer's

account from a second POS terminal. This second POS terminal includes a corresponding POS database with information about products available at the second POS terminal.

The cited text (abstract and col. 3, lines 3-10) does not describe two POS terminals, with redemption at a first terminal of a pre paid product that was added a second terminal. Instead, the cited text describes certain administrative steps associated with setting up smart cards, as well as details on the quota system used to restrict the card user's access to meals. This plainly has nothing to do with the claim limitation.

Since the secondary reference fails to remedy the above deficiency in the disclosure of the primary reference, the combination of references fails to teach or suggest the subject matter of claim 51. Therefore, Applicant requests reversal of the section 103 rejection of claim 51.

SECTION 103 REJECTION OF DEPENDENT CLAIM 52

Claim 52 requires two POS databases with non-overlapping content.

The cited text (abstract and col. 3, lines 3-10) does not describe POS databases, let alone whether or not their content overlaps. Hence, the cited text has nothing to do with the additional limitation of claim 52.

Since the secondary reference fails to remedy the above deficiency in the disclosure of the primary reference, the combination of references fails to teach or suggest the subject matter of claim 52. Therefore, Applicant requests reversal of the section 103 rejection of claim 52.

SECTION 103 REJECTION OF DEPENDENT CLAIM 45

The cited text refers to using a computer to configure a smart card.

Claim 45 requires that the request to add pre-paid products to an account be sent from a POS terminal.

In *Greer*, the computer that configures a smart card and adds information about a meal plan is not a POS terminal. According to *Greer*, POS terminals read a smart card, and determine whether a meal can be dispensed. If a meal is to be dispensed, the POS terminal also updates a count so that the customer does not obtain more meals than he should. This does not amount to adding a pre-paid product to the smart card.

Since the secondary reference fails to remedy the above deficiency in the disclosure of the primary reference, the combination of references fails to teach or suggest the subject matter of claim 45. Therefore, Applicant requests reversal of the section 103 rejection of claim 45.

REJECTION OF CLAIMS 2, 4, 6-8, 27-28, 32-36, AND 53-56 UNDER 35 USC 103(A) AS BEING RENDERED OBVIOUS BY THE COMBINATION OF *GREER*, *D'ARBELLOF*, AND *TOTH*.

SECTION 103 REJECTION OF INDEPENDENT CLAIMS 32, AND 53-55

Claim 32 recites numerous limitations similar to those recited by claim 1. For those limitations, Applicant re-asserts the corresponding arguments made in connection with claim 1.

Claim 32 includes the further limitation of

“using a set of rules to verify that the second physical product is within the family of specific physical products represented by the first physical product.”

Toth discloses, in FIG. 2, buttons with labels for product families, such as “Beverages.” Clicking on one of these buttons leads to additional menus showing members of that family. For example, clicking on “Beverages” leads to the list of beverages in FIG. 3. Accordingly, *Toth* discloses that food items can be placed into categories.

The act of showing a list of products that belong to a particular category does not amount to “using a set of rules to verify” that one of those products is in the same category as another product.

For example, if a customer were to click “iced tea” in FIG. 3, *Toth*’s system would simply place an order for iced tea. There is no indication that *Toth*’s system would respond to such a click by executing rules for determining whether a second physical product, i.e., iced tea, and a first physical product, i.e. a hamburger, are in the same family. Nor is there any indication that either of the cited references would carry out anything remotely like such a function.

Accordingly, even if one were to somehow combine all three references with each other, the result would still fail to disclose or suggest the claimed invention.

As for the proposed motivation to combine the references, the examiner suggests it would have been obvious for one to modify the teaching of *Greer* and *D'Arbeloff* so as to “allow customers or students to select the components of their meal from a variety of options that may be classified as part of a larger classification such as different entrees, appetizers, or desserts.”

Applicant submits that one of ordinary skill in the art would have understood that there already exists something that would “allow customers or students to select the components of their meal from a variety of options that may be classified as part of a larger classification such as different entrees, appetizers, or desserts.” Such a device is better known as a “menu.”

Applicant is not claiming the fact that menus have various sections. Applicant’s claim recites

using a set of rules to verify that the second physical product is within the family of specific physical products represented by the first physical product.

The foregoing claim limitation is not the same thing as displaying a menu that shows desserts in a dessert category and appetizers in an appetizer category.

Claims 33-36 include the limitations of claim 32 and are patentable for at least the same reasons.

Claims 6-8 include limitations that are allegedly disclosed by *Toth*. Those claims are patentable for at least the same reasons as discussed above.

SECTION 103 REJECTION OF DEPENDENT CLAIM 36

Claim 36 requires that the set of rules be “specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made.”

The examiner states that *Toth* discloses this limitation at paragraph 74 and 22.

Paragraph 22 merely states that there exists a need for a system that guides the user through ordering and makes him feel as if the order has been properly entered and received. This has nothing to do with rules that are “specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made.”

Paragraph 74 simply describes FIGS. 2 and 3, which show two layers of a hierarchical menu. The existence of two hierarchical menu layers has nothing whatsoever to do with rules that are “specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made.”

Since none of the other references remedy the above deficiency in the disclosure of *Toth*, the combination of references taken as a whole fails to teach or render obvious the subject matter of claim 32. Accordingly, the section 103 rejection is improper and should be reversed.

SECTION 103 REJECTION OF DEPENDENT CLAIM 35

Claim 35 recites the additional limitation of having the request to redeem a second product originate “from a point of sale terminal at a restaurant.”

The examiner asserts that *Toth* discloses this limitation at paragraph 74 and at paragraph 22.

Paragraph 22 merely states that there exists a need for a system that guides the user through ordering and makes him feel as if the order has been properly entered and received. This has nothing to do with having a request to redeem a second product originate “from a point of sale terminal at a restaurant.”

Paragraph 74 simply describes two layers of a hierarchical menu, shown in FIGS. 2 and 3. The existence of two hierarchical menu layers has nothing whatsoever to do with having a request to redeem a second product originate “from a point of sale terminal at a restaurant.”

Toth discloses using a POS at a restaurant. But *Toth*’s POS is only being used to order food. There is no teaching or suggestion in *Toth* of having a redemption request originate at a POS.

The remaining references fail to remedy the above deficiency in the disclosure of *Toth*. Accordingly, the section 103 rejection of claim 35 is improper and should be reversed.

SECTION 103 REJECTION OF INDEPENDENT CLAIM 55

In addition to limitations discussed in connection with claim 32, claim 55 recites the limitation of “of enabling a plurality of point-of-sale (POS) terminals at various stores of a franchise to access corresponding POS databases having information about products that are available for purchase or redemption at each corresponding POS terminal.”

The examiner has not indicated how the combination of references would suggest to one of ordinary skill in the art the above limitation. Accordingly, no prima facie case of obviousness has been made for claim 55.

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**REJECTION OF CLAIMS 37-40 UNDER 35 USC 103(A) AS BEING
RENDERED OBVIOUS BY THE COMBINATION OF GREER AND
TOTH.**

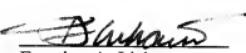
Independent claim 37 includes limitations that pertain to redemption of physical products in a customer account. The distinction between redemption of physical products and Greer's meal plan has been discussed in connection with claim 1 and is applicable to claim 37 and progeny as well. Accordingly, for the reasons discussed in connection with claim 1, claim 37 and progeny are patentable.

(II) Conclusion

No appeal brief fee is required in connection with the filing of this brief. The appeal brief fee was paid in connection with the filing of the appeal brief on January 12, 2011. However, to the extent any fee may be due, please adjust our Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 50-4189, referencing Attorney Docket No. 30074-003001.

Respectfully submitted,

Date: March 4, 2011


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(8) Claims Appendix

1. (Previously Presented) A computer implemented method of buying, storing, and redeeming products, comprising:

receiving, from a first terminal, information indicating that one or more physical products have been pre-paid;

receiving, from the first terminal, information indicating that a payment specific to the one or more pre-paid physical products has been made;

receiving, from the first terminal, a unique identifier that is used to identify a physical card;

adding, by a computer, the one or more pre-paid physical products to an account associated with the physical card;

storing the account information in a central database;

receiving from the first terminal or a second terminal a unique identifier and a request to redeem one of the pre-paid physical products ;

verifying, by the computer, that the unique identifier received with the request matches the unique identifier used to identify the physical card, and that the pre-paid product in the request matches one of the one or more pre-paid products in the account ; and

sending approval of redemption of the pre-paid physical product to enable a user to redeem the pre-paid physical product at the first or second terminal without an additional payment or deduction of a monetary amount stored in the physical card.

2. **(Previously Presented)** The method of claim 1 in which the one or more products comprise a specific item of a restaurant menu.
3. **(Previously Presented)** The method of claim 1 in which the one or more products comprise a product associated with a specific stock keeping unit (SKU).
4. **(Previously Presented)** The method of claim 1 in which at least one of the pre-paid products comprises a family of items of a restaurant menu.
5. **(Previously Presented)** The method of claim 1 in which at least one of the pre-paid products is associated with a family of SKU items.
6. **(Previously Presented)** The method of claim 1 in which at least one of the pre-paid products comprises a category of products.
7. **(Previously Presented)** The method of claim 6 in which the category of products comprise a plurality of families of products.
8. **(Previously Presented)** The method of claim 6 in which the category of products comprise a plurality of SKU items.
9. **(Cancelled).**
10. **(Previously Presented)** The method of claim 1, further comprising sending to the second terminal a message showing the pre-paid products in the account.
11. **(Previously Presented)** The method of claim 1, further comprising selecting, by the computer, one or more of the pre-paid products in the account based on rules that specify which pre-paid products are redeemable at the time and the location of the second point-of-sale, and sending to the

second point-of-sale terminal a message specifying the selected one or more pre-paid products that are redeemable.

12. (Previously Presented) The method of claim 1, further comprising adding, by the computer, a pre-paid dollar discount of an item to the account.

13. (Previously Presented) The method of claim 1, further comprising adding, by the computer, a pre-paid dollar discount of a plurality of items to the account.

14. (Previously Presented) The method of claim 1, further comprising adding, by the computer, a pre-paid percentage discount of an item or a plurality of items to the account.

15-17. (Cancelled).

18. (Previously Presented) The method of claim 1, further comprising receiving messages indicating that the one or more pre-paid products have been added to a check, performing, by the computer, a check-level reconciliation, and automatically removing any products that have been added to the check but had not actually been paid for.

19. (Previously Presented) The method of claim 1 in which the first terminal comprises a point-of-sale (POS) terminal.

20. (Previously Presented) The method of claim 1 in which the first terminal comprises a remote network terminal.

21. (Previously Presented) The method of claim 1 in which the first terminal comprises a kiosk.

22. (Previously Presented) The method of claim 1 in which the unique identifier comprises a unique identifier of a loyalty card.

23. (Canceled)

24. (Previously Presented) The method of claim 1 in which the unique identifier comprises a unique identifier of a payment card.

25. (Previously Presented) The method of claim 1 in which the unique identifier comprises a unique identifier of a smart card.

26. (Previously Presented) A system comprising:

a first point-of-sale (POS) terminal comprising

a first POS database having information about physical products that are available for purchase or redemption at the first POS terminal,

a first user interface to enable a seller to enter information indicating that one or more physical products have been pre-paid and send messages to a central server to store information about the one or more physical products in an account associated with a unique identifier of a physical card, the message indicating that a payment specific to the one or more pre-paid products has been made by a customer, and

a second user interface to receive messages from the central server indicating one or more pre-paid physical products in the account that are redeemable by a customer providing the unique identifier of the card and enabling the customer to redeem one of the pre-paid products without an additional payment or deduction of a monetary amount from the physical card.

27. (Previously Presented) The system of claim 26 in which the POS terminal comprises rules for selecting one of a plurality of products in the POS database that corresponds to a pre-paid product in the account when the

pre-paid product represents a product category that corresponds to more than one product in the POS database.

28. (Previously Presented) The system of claim 27 in which the pre-paid product comprises an entrée that corresponds to a plurality of items in a restaurant menu in the POS database.

29. (Previously Presented) The system of claim 26 in which the POS database comprises real-time rules for adding rewards to or removing rewards from the account based on conditions at the time of transaction.

30-31 (Canceled)

32. (Previously Presented) A computer implemented method of buying, storing, and redeeming physical products, comprising:

receiving information indicating that a first physical product has been pre-paid, the first physical product representing a family of specific physical products;

receiving a unique identifier;

adding, by a computer, the first physical product to an account identified by the unique identifier;

receiving a unique identifier and a request to redeem a second physical product that is among the family of specific physical products represented by the first physical product;

verifying, by the computer, that the unique identifier received with the request matches the unique identifier used to identify the account;

processing, by the computer, the request to redeem the second physical product using a set of rules to verify that the second

physical product is within the family of specific physical products represented by the first physical product; and

sending approval of redemption of the second physical product.

33. (Previously Presented) The method of claim 32 in which the first product comprises a food category that comprises a family of specific food products.

34. (Previously Presented) The method of claim 32 in which the first product comprises a category of restaurant menu items that comprise a plurality of specific restaurant menu items.

35. (Previously Presented) The method of claim 34 in which the request to redeem the second product originates from a point-of-sale terminal at a restaurant.

36. (Previously Presented) The method of claim 32 in which the set of rules is specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made.

37. (Previously Presented) A system comprising :

a point-of-sale (POS) terminal comprising

a user interface to enable a customer to redeem physical products in an account of the customer,

a POS database having information about a plurality of physical products that are available for redemption at the POS terminal, and rules about selecting a physical product from the plurality of physical products in response to a request to

redeem a first physical product in the account that corresponds to a plurality of specific physical products in the POS database, and

a processor to select a specific physical product from among the plurality of specific physical products in the POS database for redemption according to the rules, in which the specific physical product selected by the processor is more specific than the first physical product in the request for redemption.

38. (Previously Presented) The system of claim 37 in which the first product comprises a food category that corresponds to a family of specific food products.

39. (Previously Presented) The system of claim 37 in which the first product comprises a category of restaurant menu items that correspond to a plurality of specific restaurant menu items.

40. (Previously Presented) The system of claim 37 in which the rules are specific to at least one of a user who requests to redeem a product, a store where the request to redeem a product originates, a merchant associated a product to be redeemed, or a time when a request to redeem a product is made.

41. (Previously Presented) A computer implemented method of processing a customer order at a restaurant, the method comprising:

receiving, from a first restaurant point-of-sale terminal, an identifier associated with a physical card, information about a customer's order, and information indicating that a payment specific to the customer's order has been made;

storing, by a computer, in an account associated with the card information about the customer's order;

receiving, from a second restaurant point-of-sale terminal, the identifier associated with the card and a request to retrieve the stored order; and

providing the stored order to the second restaurant point-of-sale terminal without an additional payment or deduction of a monetary amount from the physical card.

42-43 (Cancelled)

44. (Previously Presented) A computer implemented method of operating a stored product card, comprising:

receiving a unique identifier that identifies a physical card, information indicating that one or more physical products have been pre-paid, and information indicating that a payment specific to the one or more pre-paid physical products has been made;

receiving a request to add the one or more pre-paid physical products to an account associated with the physical card;

receiving the unique identifier and a request to redeem a second physical product;

verifying, by a computer, that the second physical product matches one of the one or more pre-paid physical products in the account ; and

sending approval of redemption of the second physical product to enable a user to redeem the second physical product without an additional payment or deduction of a monetary amount from the physical card.

45. (Previously Presented) The method of claim 44 in which the request to add the one or more pre-paid products to the account is sent from a point-of-sale terminal.

46. (Previously Presented) The method of claim 1, further comprising transferring money from a first legal entity that owns the first terminal to a second legal entity that owns the second terminal based on a preset value for each type of pre-paid item when the second unique identifier and the request to redeem the second product are received by the second terminal, wherein the first and second legal entities are two different legal entities of a franchised organization.

47. (Previously Presented) The method of claim 1, further comprising transferring money from a first legal entity that owns the first terminal to a second legal entity that owns the second terminal based on an actual value or a percentage of the actual value of the redeemed product when the second unique identifier and the request to redeem the second product are received by the second terminal, wherein the first and second legal entities are two different legal entities of a franchised organization.

48. (Previously Presented) The method of claim 1, further comprising receiving messages indicating that the one or more pre-paid products have been added to a check, and performing a check-level reconciliation to confirm that the pre-paid products added to the check have actually been paid.

49. (Previously Presented) The method of claim 1 in which the first terminal comprises a first point-of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal, the second terminal comprises a second point-of-sale terminal having access to a second point-of-sale database having information about products that are

available for purchase or redemption at the second point-of-sale terminal, the first point-of-sale terminal does not have access to the second point-of-sale database, and the second point-of-sale terminal does not have access to the first point-of-sale database.

50. (Previously Presented) The method of claim 1 in which the first terminal comprises a first point-of-sale terminal having access to a first point-of-sale database having information about products that are available for purchase or redemption at the first point-of-sale terminal, the second terminal comprises a second point-of-sale terminal having access to a second point-of-sale database having information about products that are available for purchase or redemption at the second point-of-sale terminal, and at least some of the products that are available for redemption at the second point-of-sale terminal are different from the products that are available for purchase at the first point-of-sale terminal.

51. (Previously Presented) The system of claim 26 in which the first POS terminal enables the customer to redeem a pre-paid product that was added to the account from a second POS terminal comprising a second POS database having information about products that are available for purchase or redemption at the second POS terminal.

52. (Previously Presented) The system of claim 51 in which some products listed in the second POS database are not listed in the first POS database.

53. (Previously Presented) A computer implemented method of buying, storing, and redeeming products, comprising:

receiving, from a first terminal information indicating that one or more products have been pre-paid, the one or more products comprising a product corresponding to at least one of a family of items of a restaurant menu, a plurality of stock keeping unit

(SKU) items, a family of SKU items, a category of products, or a plurality of families of products;

storing, by a computer, information about the one or more pre-paid products in a central database;

receiving from a second terminal a request to redeem a specific product;

verifying, by the computer, that the specific product matches one of sub-members of the pre-paid products; and

sending approval of redemption of the specific product to enable a customer to redeem the specific product at the second terminal, in which the specific product being redeemed is more specific than the pre-paid product.

54. (Previously Presented) A method of buying, storing, and redeeming products, comprising:

receiving from a plurality of point-of-sale (POS) terminals information regarding pre-paid products that were paid by customers,

storing, by a computer, information about the pre-paid products in accounts associated with identifiers designated by the customers to enable later redemption of the pre-paid products, each POS terminal having access to a corresponding POS database having information about products that are available for purchase or redemption at the POS terminal, some of the products each corresponding to at least one of a family of items of a restaurant menu, a plurality of SKU items, a family of SKU items, a category of products, or a plurality of families of products; and

enabling redemption of one of the family of items of the restaurant menu, one of the plurality of SKU items, one of the family of SKU items, one of the category of products, or one of the plurality of families of products.

55. (Previously Presented) A method of operating a plurality of point-of-sale terminals, comprising:

enabling a plurality of point-of-sale (POS) terminals at various stores of a franchise to access corresponding POS databases having information about products that are available for purchase or redemption at each corresponding POS terminal, the POS terminal of each store not having access to the POS databases of other stores; and

enabling each POS terminal to allow customers to pay for products, store information about the pre-paid products in accounts associated with the customers at a central server to allow later redemption of the pre-paid products at any of the POS terminals, and to allow customers to redeem pre-paid products that were paid for at any of the POS terminals.

56. (Previously Presented) The method of claim 55 in which some of the products each corresponds to at least one of a family of items of a restaurant menu, a plurality of SKU items, a family of SKU items, a category of products, or a plurality of families of products, and enabling each POS terminal to allow customers to redeem pre-paid products comprises enabling each POS terminal to allow customers to redeem at least one of one of the family of items of the restaurant menu, one of the plurality of SKU items, one of the family of SKU items, one of the category of products, or one of the plurality of families of products.

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(9) Evidence Appendix

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(10) Related Proceedings Appendix

NONE